

AMENDED IN SENATE JULY 10, 1997
AMENDED IN SENATE JUNE 10, 1997
AMENDED IN ASSEMBLY APRIL 17, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 877

Introduced by Assembly Member Miller
(Coauthor: Senator Solis)

February 27, 1997

An act to amend ~~Section~~ *Sections 11737 and 11753.1* of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 877, as amended, Miller. Workers' compensation: insurance classification.

(1) Existing law authorizes the Insurance Commissioner to disapprove a rate if a workers' compensation or employers' liability insurer fails to comply with certain filing requirements. A party affected by an action of such an insurer or a rating organization in a request to review the manner in which a rating system has been applied in connection with insurance afforded or offered may appeal to the commissioner within 30 days after written notice of the action and after a hearing held upon not less than 10 days' written notice to the applicant and to the insurer or rating organization. The commissioner may affirm, modify, or reverse the action.

This bill would provide that the hearing be held within 60 days from the date on which the party requests the appeal or

longer upon agreement of the parties. It would provide that if the commissioner has information on the subject, as specified, the appeal may be denied without a hearing.

(2) Existing law requires the ~~Insurance Commissioner~~ commissioner to designate a rating organization to assist him or her, among other things, in developing a classification system for workers' compensation insurance. Existing law provides that any person aggrieved by any decision, action, or omission to act of an insurer or ~~such~~ a rating organization may request reconsideration, as specified.

This bill would require the ~~Insurance Commissioner~~ commissioner, on or before January 1, 1999, to adopt regulations to implement and consolidate an appeals process, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 11737 of the Insurance Code is*
2 *amended to read:*

3 11737. (a) The commissioner may disapprove a rate
4 if the insurer fails to comply with the filing requirements
5 under Section 11735.

6 (b) If the commissioner believes that rates may violate
7 any of the requirements of this article, he or she shall call
8 a hearing prior to any disapproval. The commissioner
9 shall disapprove a rate if he or she finds that the rate
10 would, if continued in use, tend to impair or threaten the
11 solvency of an insurer or tend to create a monopoly in the
12 market pursuant to Section 11732.

13 (c) Every insurer or rating organization shall provide
14 within this state reasonable means whereby any person
15 aggrieved by the application of its filings may be heard on
16 written request to review the manner in which the rating
17 system has been applied in connection with the insurance
18 afforded or offered. If the insurer or rating organization
19 fails to grant or reject the request within 30 days, the
20 applicant may proceed in the same manner as if the
21 application had been rejected. Any party affected by the

1 action of the insurer or rating organization on the request
 2 may, within 30 days after written notice of the action,
 3 appeal to the commissioner who, after a hearing held
 4 ~~upon~~ *within 60 days from the date on which the party*
 5 *requests the appeal, or longer upon agreement of the*
 6 *parties and not less than 10 days'* written notice to the
 7 appellant and to the insurer or rating organization, may
 8 affirm, modify, or reverse—~~such~~ *that* action. *If the*
 9 *commissioner has information on the subject from which*
 10 *the appeal is taken and believes that a reasonable basis for*
 11 *the appeal does not exist or that the appeal is not made*
 12 *in good faith, the commissioner may deny the appeal*
 13 *without a hearing. The denial shall be in writing and shall*
 14 *set forth the basis for the denial and shall be served on all*
 15 *parties.*

16 (d) If the commissioner disapproves a rate, the
 17 commissioner shall issue an order specifying in what
 18 respects it fails to meet the requirements of this article
 19 and stating when within a reasonable period thereafter
 20 ~~such~~ *that* rate shall be discontinued for any policy issued
 21 or renewed after a date specified in the order. The order
 22 shall be issued within 30 days after the close of the hearing
 23 or within such reasonable time extension as the
 24 commissioner may fix. The order may include a provision
 25 for premium adjustment for the period after the effective
 26 date of the order for policies in effect on that date.

27 (e) Whenever an insurer has no legally effective rates
 28 as a result of the commissioner's disapproval of rates or
 29 other act, the commissioner shall on request of the insurer
 30 specify interim rates for the insurer that are adequate to
 31 protect the interests of all parties and may order that a
 32 specified portion of the premiums be placed in an escrow
 33 account approved by him or her. When new rates become
 34 legally effective, the commissioner shall order the
 35 escrowed funds or any overcharge in the interim rates to
 36 be distributed appropriately, except that refunds of less
 37 than ten dollars (\$10) per policyholder shall not be
 38 required.

39 SEC. 2. Section 11753.1 of the Insurance Code is
 40 amended to read:

1 11753.1. (a) Any person aggrieved by any decision,
2 action, or omission to act of a rating organization may
3 request that the rating organization reconsider the
4 decision, action, or omission. If the request for
5 reconsideration is rejected or is not acted upon within 30
6 days by the rating organization, the person requesting
7 reconsideration may, within a reasonable time, appeal
8 from the decision, action, or omission of the rating
9 organization. The appeal shall be made to the
10 commissioner by filing a written complaint and request
11 for a hearing specifying the grounds relied upon. If the
12 commissioner has information on the subject appealed
13 from and believes that probable cause for the appeal does
14 not exist or that the appeal is not made in good faith, the
15 commissioner may deny the appeal without a hearing.
16 The commissioner shall otherwise hold a hearing to
17 consider and determine the matter presented by the
18 appeal.

19 (b) Any insurer adopting a change in the classification
20 assignment of an employer that results in an increased
21 premium shall notify the employer in writing, or where
22 the insurance was transacted through an insurance agent
23 or broker, the insurer shall notify the agent or broker who
24 shall notify the employer in writing of the change and the
25 reasons for the change. Any employer receiving this
26 notice shall have the right to request reconsideration and
27 appeal the reclassification pursuant to this section. The
28 notice required by this section shall inform the employer
29 of his or her rights pursuant to this section. No notification
30 shall be required when the change is a result of a
31 regulation adopted by the Department of Insurance or
32 other action by or under the authority of the
33 commissioner.

34 An insurer shall provide written notification of the
35 revised classification assignment to an employer within
36 30 days after adoption.

37 (c) On or before January 1, 1999, the commissioner
38 shall adopt regulations to implement the appeals
39 processes set forth in this section and subdivision (c) of
40 Section 11737 and consolidate these processes into the

1 appropriate section of the administrative regulations
2 governing the powers and duties of the commissioner.

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